

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

PAUL W. CHAFER, R.L.S.,

LS9107031LSR

Respondent

FINAL DECISION AND ORDER

The parties to this proceeding for the purposes of Wis. Stats. sec. 227.53 are:

Paul W. Chafer R.L.S.
Route 1, Box 83
Lone Rock, WI 53556

Examining Board of Architects, Professional
Engineers, Designers and Land Surveyors
P.O. Box 8935
Madison, WI 53708

Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708

The rights of a party to petition the board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information."

A hearing was held in this matter on September 30 and October 1, 1991, at the Department of Regulation and Licensing in Madison. Respondent Paul W. Chafer, R.L.S., appeared in person, without counsel. Attorney Judith Mills Ohm appeared for the Complainant, Division of Enforcement.

The administrative law judge filed his Proposed Decision in the matter on February 7, 1992. Mr. Chafer and Ms. Ohm filed their objections to the Proposed Decision on February 26 and February 28, respectively. The Land Surveyors Section of the board

considered the matter on April 9, 1992.

Based upon the entire record in this case, the Examining Board of Architects, Professional Engineers, Designers and Land Surveyors make the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Paul W. Chafer is registered as a land surveyor in Wisconsin under a certificate issued April 12, 1979.

AS TO COUNT I AND II

2. Section 59.60(2), Stats., requires that registered land surveyors file a copy of a survey they complete in the office of the county surveyor within 60 days of completing the survey.

3. On or about January 16, 1987, James Walsh, Assistant District Attorney of Richland County, sent a letter to Respondent informing him that there had been some delay on Respondent's part in filing surveys with the county surveyor, and reminding Respondent that the statutes require that surveys be filed with the county surveyor within 60 days of the completion of the survey, and requesting that Respondent file surveys in a timely manner.

4. On or about March 1, 1988, Edward Leineweber, District Attorney of Richland county, sent a letter to Respondent noting that Respondent had apparently continued to fail in his duty to file surveys within 60 days of their completion, and suggesting a meeting to resolve the problem.

5. On April 13, 1988, the District Attorney sent a letter to Respondent to confirm the agreement reached at a meeting on March 28, 1988. The agreement was that Respondent would, by June 1, 1988, provide the District Attorney with a list of all surveys Respondent had done in Richland County, that the District Attorney would give the list to the County Surveyor, and that the County Surveyor would compare the list with the county records to determine which surveys had not been filed. The District Attorney also suggested that Respondent retain proof of filing of all surveys in the future.

6. On August 22, 1988, the District Attorney sent a letter to Respondent noting that the County Surveyor's comparison of Respondent's list of surveys completed between 1979 and April, 1988, and the County records showed that 68 of the 155

surveys listed by Respondent had not been filed. The letter requested that Respondent provide the County Surveyor with copies of those 68 surveys by September 6, 1988.

7. After an extension of the deadline for filing the previously unfiled surveys, Respondent did eventually file the 68 surveys.

8. On or about August 27, 1990, the County Surveyor sent a letter to the District Attorney stating that Respondent had filed only two surveys in the period following the September, 1988, filings.

AS TO COUNT III

9. During the period March 1, 1987, through June 1, 1989, sec. A-E 7.08(1), Wis. Admin. Code, required, in part that

"A U.S. public land survey monument record shall be prepared as part of any land survey which includes or requires the perpetuation, restoration or reestablishment of a U.S. public land survey corner, and

a. There is no U.S. public land survey monument record for the corner on file in the office of the county surveyor or the register of deeds for the county in which the corner is located."

10. On or about July 25, 1987, Respondent completed a land survey in Richland County for Jerry Gander, for which Respondent was required to prepare a U.S. public land survey monument record as part of the land survey, but Respondent did not include any such monument record with the survey he filed in the County Surveyor's office.

11. On or about May 27, 1987, Respondent completed a land survey in Richland County for Farm Credit Service, for which he was required to prepare a U.S. Public land survey monument record, but Respondent did not include any such monument record with the survey he filed in the County Surveyor's office.

12. On or about April 6, 1987, Respondent completed a land survey in Richland County for Dale Mueller, for which Respondent was required to prepare a U.S. public land survey monument record, but Respondent did not include any such monument record with the survey he filed in the County Surveyor's office.

13. On or about March 30, 1988, Respondent completed a land survey in Richland County for Marshall Agency, for which he was required to prepare a U.S.

public land survey monument record, but Respondent did not include any such monument record with the survey he filed in the county Surveyor's office.

14. On or about May 18, 1988, Respondent completed a land survey in Richland county for William Schaller, for which respondent was required to prepare a U.S. public land survey monument record, but he did not include any such monument record with the survey he filed in the County Surveyor's office.

15. On or about July 2, 1988, Respondent completed a land survey in Richland County for Sheldon Bartel, for which he was required to prepare a U.S. public land survey monument record, but he did not include any such monument record with the survey he filed with the county Surveyor.

16. In December, 1988, Respondent completed a land survey in Richland County for Farm Credit Service and Mark Lee, for which he was required to prepare a U.S. public land survey monument record. Respondent did not file either the survey or the monument record with the County Surveyor's office until October 24, 1989.

17. In November, 1988, Respondent completed two land surveys in Richland county for Mr. Palmert. As part of those surveys, Respondent was required to prepare U.S. public land survey monument records. Respondent did not file either the surveys or the monument records with the County Surveyor's office until October 24, 1989.

AS TO COUNTS V AND VI

18. On or about July 31, 1984, Respondent completed a land survey and preparation of a map of the survey for Timothy J. Ebert, who had just purchased a parcel of land from Jim Main on a land contract. The parcel of land was described as part of the northwest quarter of Section 2, T. 10 N., R. 1 W., Richland County, Wisconsin.

19. On or about December 13, 1984, Respondent completed a second land survey and preparation of a map of the survey for Timothy Ebert, for the same parcel of land as the survey described in Paragraph 18 of these Findings of Fact. Mr. Ebert requested that the original survey be modified so that some cropland which Mr. Main had rented to a third party, was excluded from the parcel Mr. Ebert was purchasing from Mr. Main.

20. The closed traverse depicted on the second survey and map had a latitude and departure closure ratio in excess of 1 in 3000, the survey failing to close by approximately 100 feet.

21. Section A-E 7.06(4), Wis. Admin. Code, requires any closed traverse depicted on a survey to have a latitude and departure closure ratio of less than 1 in 3000.

AS TO COUNTS VII AND VIII

22. In August, 1987, Timothy Ebert notified Respondent of a problem with the survey described in paragraph 19 of these Findings of Fact, in that the survey failed to close.

23. In April, 1988, Respondent met Mr. Ebert at the parcel of land Respondent had surveyed in December 1984, in order to try to locate the iron pipes he had placed and to correct the errors from the previous survey.

24. On or about June 30, 1988, Respondent completed the revision of the land survey and survey map for Mr. Ebert.

25. The closed traverse depicted in the revised survey had a latitude and departure closure ratio in excess of 1 in 3000.

AS TO COUNT IX

26. On or about June 30, 1988, Respondent completed a land survey for Marshall Agency. The parcel surveyed was described as part of the northwest quarter of the Northwest quarter of Section 5, T. 10 N., R. 1 E., Richland County, Wisconsin.

27. The north line of the parcel surveyed, which is located entirely in section 5, is depicted as part of a section line, along which runs a fence; Respondent's map of the survey shows a bend of approximately 2' in the section line at the north-west corner of the parcel being surveyed. This point is not a section or quarter-section corner, but rather is described as a point 1567.66' from the NW corner of the NE 1/4 of the NE 1/4 of section 6, T. 10 N., R. 1 E. The survey does not mention the intermediate section corner on the line between sections 5 and 6.

28. Respondent took the northwest corner of the parcel being surveyed from an iron pipe set by the surveyor who did the survey setting the boundaries of the parcel to the west of the parcel Respondent was surveying, and the north and west boundary lines from the existing fence lines, because he was told that the property to be

transferred in the underlying sale was defined on the north and west by the existing fence lines. Respondent did not acquire any other data to determine record title boundaries.

29. Respondent did not prepare a U.S. public land survey monument in connection with this survey, for the north line of sections 5 and 6, T. 10 N., R. 1 E., Richland County, Wisconsin.

AS TO COUNT X

30. On or about June 6, 1988, Respondent completed a land survey for an entity identified as R.L.C. The parcel of land surveyed was described as lying in the northwest quarter of the southeast quarter of Section 19, T. 10 N., R. 1 E., Richland County, Wisconsin.

31. Respondent did not reference the bearings on the map of this survey to a magnetic, true or any other identifiable line of the public land survey, recorded subdivision, or Wisconsin Coordinate System.

AS TO COUNT XI, XII, AND XIII

32. On or about April 25, 1990, Windward Farms, owned by John and James McHugh of Chicago, Illinois, accepted an offer to purchase a country home and approximately two acres of land in Crawford County, Wisconsin. The offer to purchase was made by Mr. and Mrs. Arnold Mindham of Boscobel, Wisconsin, through Robert Griffin of Blackhawk Country Realty, a realtor acting on behalf of Windward Farms. One of the terms of the agreement was that Windward Farms would furnish a survey of the property prior to closing, set on or before June 1, 1990.

33. Windward Farms retained Respondent to perform the survey.

34. The Mindhams contacted Respondent several times to inquire about the progress of the survey, and Respondent eventually stated that the survey had been sent to Crawford County for review and certification, but the closing date of June 1, 1990, passed without the survey having been submitted to the Crawford County Property Lister.

35. Sometime in mid-June, 1990, Respondent hand-delivered a survey of the property to Mrs. Mindham, who delivered it to Mr. Griffin, the realtor. Mr. Griffin delivered the survey to the Crawford County Property Lister, Mrs. Delores Bonney. The Property Lister normally began the process of having surveys reviewed and

certified by Crawford County, but immediately returned the Windward Farms/Mindham survey to Mr. Griffin without beginning the process because of the number of errors she detected on the survey. Mrs. Bonney, the Property Lister, gave Mr. Griffin a copy of selected statutes and ordinance sections to deliver to Respondent, along with the survey.

36. On or about August 21, 1990, Mr. Griffin delivered a revised survey of the parcel, prepared by Respondent on August 19, 1990, to the Crawford County Property Lister. The survey was sent through the normal 30-day review process, in accordance with the county ordinance, and returned to Respondent on or about September 21, 1990, for correction of numerous problems identified by the reviewers, including the Crawford County Surveyor, Richard Marks. The reviewers' notations on the survey noted the lack of bearings and distances to section corners, the lack of boundary locations of rights-of-way, the lack of identification of distances between points, and failure of the survey to note other information about the location of section lines, among other problems.

37. On or about October 16, 1990, Mr. Griffin delivered Respondent's third attempt at the survey to the Crawford County authorities. The County Surveyor reviewed the survey, and returned it, noting that a number of corrections were still required, and that the survey needed to be drawn on heavier paper.

38. On or about October 29, 1990, Respondent delivered his fourth attempt at the survey to the Crawford County Property Lister for review and certification. Mrs. Bonney, the Property Lister, noted that several revisions were still required, including mathematical errors, failure to note building set back lines in accordance with the County Ordinance, and discrepancies in measurements within the survey. Mrs. Bonney sent the survey to Mr. Marks, the County Surveyor, for his review. Mr. Marks noted that Respondent's survey showed that he had set monuments at the south quarter corner and the southeast corner of Section 34. Mr. Marks checked the Crawford County records and found that those corners had been set on a previous survey, and that there was an 18 foot discrepancy in the distance between those points as set in the previous survey and as set by Respondent.

39. On or about November 1, 1990, Respondent went to the office of the Crawford County Property Lister, and made corrections to the survey, which was then filed in the office of the Register of Deeds.

40. In determining the boundaries of the parcel, Respondent relied in part upon conversations with the owner of at least one adjacent parcel that a fence line was the established boundary between the parcels.

41. Respondent's maps of the survey did not uniformly show the bearings of the boundary lines.

42. Section 236.34, Stats., requires the map of a certified survey to be prepared with a binding margin 1.5 inches wide. The maps Respondent prepared for the Mindham survey contained identification information within the area reserved for a binding margin.

43. Section 236.20, Stats., requires that the final plat of subdivided land show the exact width of all easements, streets and alleys. The maps Respondent prepared for the Mindham survey did not contain this information.

44. Section 236.20, Stats., requires that the final plat of subdivided land show the location of the subdivided land by bearing and distance from the boundary line of a quarter-section, recorded private claim or federal reservation in which the subdivided land is located, with description of the monumentation at the ends of the boundary line and the distance between them. The maps Respondent prepared for the Mindham survey did not contain this information.

45. Section 236.34(1)(d)4, Stats., requires that a surveyor preparing a certified survey map of a subdivision certify that the surveyor has complied with the requirements of ch. 236, Stats. in completing the survey. Respondent included a certificate of compliance with ch. 236, Stats., on his map of the Mindham survey, and included an unnecessary statement of compliance with a section of the A-E rules, citing to the old number of a recently re-numbered but continuously effective rule.

46. Wis. Stats. ch. 236 establishes the standards and requirements for certified survey maps. Wis. Stats. sec. 236.02(12) defines "subdivision" as a

"division of a lot, parcel, or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where (a) the act of division creates 5 or more parcels or building sites of 1 acres each or less in area; or (b) Five or more parcels or building sites of 1 acres each or less in area are created by successive division within a period of 5 years."

Wis. Stats. sec. 236.03(1) states as follows:

"Any division of land which results in a subdivision as defined in s. 236.02(2)(a) shall be, and any other division may be, surveyed and a plat thereof approved and recorded as required by this chapter. No map or survey purporting to create

divisions of land or intending to clarify metes and bounds descriptions may be recorded except as provided by this chapter.

There is insufficient evidence to prove that the sale by Windward Farms to Mindhams created a situation fitting the definition of "subdivision" so as to require compliance with ch. 236, Stats.

CONCLUSIONS OF LAW

1. The Examining Board of Architects, Professional Engineers, Designers and Land Surveyors, Land Surveyors section, has jurisdiction in this matter pursuant to s. 443.12, Stats.
2. Respondent's failure to timely file copies of his surveys with the office of the County Surveyor as alleged in Count I of the Amended Complaint, is a violation of s. 59.60(2), Stats., and constitutes misconduct in violation of s. A-E 8.03(3)(a), Wis. Admin. Code.
3. Respondent's failure to prepare, or timely file, U.S. Public Survey Monument Records, as alleged in Count III of the Amended Complaint, is a violation of s. A-E 7.08, Wis. Admin. Code, and constitutes misconduct under s. A-E 8.03(3)(a), Wis. Admin. Code.
4. Respondent's failure to attain a latitude and departure closure ratio of less than 1 in 3,000 on the Ebert survey, as alleged in Count V of the Amended Complaint, is a violation of s. A-E 7.06(4), Wis. Admin. Code, and constitutes misconduct under s. A-E 8.03(3)(a), Wis. Admin. Code, and incompetence under s. A-E 8.03(2)(b), Wis. Admin. Code, as alleged in Count VI of the Amended Complaint.
5. Respondent's failure to attain a latitude and departure closure ratio of less than 1 in 3,000 on the second Ebert survey, as alleged in Count VII of the Amended Complaint, is a violation of s. A-E 7.06(4), Wis. Admin. Code, and constitutes misconduct under s. A-E 8.03(3)(a), Wis. Admin. Code, and incompetence under s. A-E 8.03(2)(b), Wis. Admin. Code, as alleged in Count VIII of the Amended Complaint.
6. Respondent's failure to carefully determine the boundaries of the parcel he surveyed in the Marshall survey, as alleged in Count IX of the Amended Complaint, and failure to file U.S. Public Land Survey Monument Record, violated ss. A-E 7.03 and 7.08, Wis. Admin. Code, and constitutes misconduct under s. A-E 8.03(3)(a), Wis. Admin. Code.

7. Respondent's failure to reference the bearings on the RLC survey to an identifiable line as required by s. 59.61, Stats., as alleged in Count X of the Amended Complaint, constitutes misconduct under s. A-E 8.03(3)(a), Wis. Admin. Code.

8. Respondent's failure to carefully determine the boundaries of the parcel he surveyed for the Windward Farms/Mindham survey, to show the exact length and bearings of the boundaries surveyed in that survey, and to prepare or file a U.S. Public Land Survey Monument record, as alleged in count XI of the Amended Complaint, are violations of ss. A-E 7.03, 7.05, and 7.08, Wis. Admin. Code, and constitute misconduct under s. A-E 8.03(3)(a), Wis. Admin. Code.

9. There is insufficient evidence to establish that Respondent was statutorily required to comply with Wis Stats. ch. 236 in completing the Windham survey, and there is therefore insufficient evidence that his failure to comply with various provisions of Wis. Stats. ch. 236 constitutes a violation of federal or state laws, local ordinances or administrative rules relating to the practice of land surveying, as alleged in Count XII of the Amended Complaint.

10. Respondent's inability to complete the Windward Farms/Mindham survey in a timely and accurate manner as described in paragraphs 47-55 of the Amended Complaint, as alleged in Count XIII of the Amended Complaint, constitutes incompetency in the practice of land surveying, demonstrating a lack of knowledge or inability to apply the fundamental principles of the profession, as defined in s. A-E 8.03(2)(b), Wis. Admin. Code.

11. Respondent's citation to an outdated number of a current rule of the Administrative Code in making a superfluous certification does not constitute a failure to use reasonable care and competence in providing surveying services in violation of s. A-E 8.06(1), Wis. Admin. Code, as alleged in Count XIV of the Amended Complaint.

ORDER

Now, therefore, it is ORDERED that Counts II, IV, XII, and XIV of the Amended Complaint are DISMISSED.

It is further ORDERED that Respondent's registration to practice land surveying in the state of Wisconsin is SUSPENDED until Respondent successfully completes the

examination required of initial applicants for registration as land surveyors, but no less than six months from the entry of this Order.

It is further ORDERED that within one year following reinstatement of his license, Respondent shall determine the need to complete and file, and if not already accomplished, shall complete and file in the office of the county surveyor or the register of deeds for the county in which the survey was performed, and shall file with the board, a U.S. public land survey monument record prepared in connection with surveys performed on or about July 25, 1987, in Richland County for Jerry Gander; performed on or about May 27, 1987, in Richland County for Farm Credit Service; performed on or about April 6, 1987, in Richland County for Dale Mueller; performed on or about March 30, 1988, in Richland County for Marshall Agency; performed on or about May 18, 1988, in Richland County for William Schaller; performed on or about June 30, 1988, in Richland County for Marshall Agency; performed on or about July 2, 1988, in Richland County for Sheldon Bartel; performed in December, 1988, in Richland County for Mark Lee; and performed in November, 1988, in Richland County for Mr. Palmert.

It is further ORDERED that the assessable costs of this proceeding, in the amount of \$9102.18, be imposed upon Respondent, pursuant to s. 440.22, Stats.

EXPLANATION OF VARIANCE

The board has accepted the Proposed Decision of the Administrative Law Judge (ALJ) in its entirety with the following exceptions:

1. A number of scrivener's errors have been corrected.
2. The ALJ's recommended Finding of Fact at paragraph #2 and his Conclusion of Law at paragraph #12 of the Proposed Decision have been stricken. Finding of Fact #2 reads as follows:
 2. It is a standard of practice in the profession of land surveying that surveyors do not place any significant or material reliance on surveys performed by any other surveyor.

It is an aphorism in the surveying profession that to the extent possible, a surveyor follows in the footsteps of his predecessors. This certainly does not imply unquestioning acceptance of the results of previous surveys of the same parcel without confirming their accuracy. It does mean that the surveyor must acquire and consider

all information relevant to the property survey being undertaken; most especially information acquired and recorded by other surveyors. As stated in Wis. Admin. Code sec. A-E 7.03:

The surveyor shall acquire data necessary to retrace record title boundaries such as deeds, maps, certificates of title and center line and other boundary line locations. The surveyor shall analyze the data and make a careful determination of the position of the boundaries of the parcel being surveyed. The surveyor shall make a field survey, traversing and connecting monuments necessary for location of the parcel and coordinate the facts of the survey with the analysis.

To say that surveyors do not place any significant or material reliance on surveys performed by any other surveyor is a misstatement, and that finding has therefore been removed

The ALJ's Conclusion of Law at paragraph #12 of the Proposed Decision has been stricken for the same reason. That conclusion found that lack of reliance by surveyors on the work of other surveyors establishes that the standard of practice of the profession does not establish any protection to the public health, safety and welfare arising from the performance of any particular survey. The ALJ decided that such lack of protection to the public arising from performance of land surveys by registered land surveyors precluded a finding that Respondent was guilty of gross negligence in having failed to file surveys and monument records as alleged in Counts II and IV. Whether Respondent may be said to have been guilty of gross negligence in addition to the misconduct found in Conclusions of Law #2 and #3 as to these omissions, depends on questions related to Respondent's intent and his awareness of relevant statutory and code requirements. The board does not consider it necessary to supplement its conclusion that Respondent engaged in misconduct in his failure to file surveys and monument records in the office of the county surveyor. But the board's decision in that regard is imperatively not based on the erroneous conclusion that failure to file surveys and monument records has no affect on the public health, safety or welfare.

3 Findings of Fact #15 and #16 of the Proposed Decision have been stricken. The allegations upon which these findings were based appeared in the original Complaint, but were omitted in the Amended Complaint.

4. Finding of Fact # 18 is deleted on the basis that the same finding appears as Finding of Fact #33.

5. Finding of Fact #50 and Conclusion of Law #9 of the Proposed Decision have been amended. The finding stated as follows:

50. Chapter 236, Stats., is devoted to the regulation of the subdivision of land, and defines "subdivision" in s. 236.02(12), Stats. as a

"division of a lot, parcel, or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where (a) the act of division creates 5 or more parcels or building sites of 1 acres each or less in area; or (b) Five or more parcels or building sites of 1 acres each or less in area are created by successive division within a period of 5 years."

There is no evidence sufficient to prove that the sale by Windward Farms to Mindhams created an situation fitting the definition of "subdivision" so that ch. 236, Stats., would apply to Respondent's survey of the parcel.

The amended Finding, appearing as Finding of Fact #46 herein, merely adds the provision of ch. 236, Stats., establishing the statutory requirement that subdivisions must be approved and recorded as provided by that chapter. The finding is retained that there is insufficient evidence to find that the Mindham survey falls within the definition of a subdivision so as to also fall within the statutory requirement that it comply with ch. 236.

Conclusion of Law #9 of the Proposed Decision reads as follows:

9. Respondent was not required to comply with any portion of ch. 236, Stats., in completing the Windward Farms/Mindham survey because it was not a regulated subdivision of land under that chapter, and any failure to do so does not constitute misconduct as alleged in Count XII of the Amended Complaint.

That conclusion has been amended to more clearly establish that because there was insufficient evidence to establish that Respondent was statutorily required to comply with ch. 236, Stats., there is also insufficient evidence to establish that his initial failure to do so constituted a violation of state or county law.

6. The board has amended the proposed Order recommended by the hearing examiner to require remedial action by Respondent. In recommending that Respondent's license be suspended for no less than six months and until he passes the examination required of initial applicants, the Administrative Law Judge commented in his Opinion as follows:

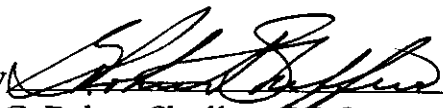
The discipline I recommend in this proceeding is intended to protect the public from a licensee who tends to do substandard work, until such time as Mr. Chafer is able to demonstrate that he can do work which meets the minimum standards of competence required by the profession. The period of suspension is intended to provide an opportunity for study and education, and to deter others from adopting a less than careful attitude toward the timely, accurate completion of survey requirements and their clients' business.

The board agrees that the recommended discipline goes far in subserving the disciplinary objectives of deterrence, rehabilitation and public protection, without being inappropriately penal. See *State v. Aldrich*, 71 Wis. 2d 206, and *State v. McIntyre*, 41 Wis. 2d 481. There is one aspect of the public health, safety and welfare which is not addressed by the recommended Order, however. Respondent failed to file necessary U.S. public land survey monument records for nine of the surveys which were subjects of this proceeding. The board considers the public welfare to require that Respondent, after having passed the land surveyors examination and having reacquired his license, promptly correct these errors of omission.

7. Finally, the board has modified that portion of the Order assessing costs to include the amount assessed, as reflected by the affidavits of cost submitted by the Division of Enforcement and the Office of Board Legal Services. Copies of the affidavits are attached hereto.

Dated this 6th ^{May} day of ~~April~~, 1992

EXAMINING BOARD OF ARCHITECTS, PROFESSIONAL
ENGINEERS, DESIGNERS AND LAND SURVEYORS

by 
G. Robert Sheffers, R.L.S.
Chairman, Land Surveyors Section

WRA:BDLS2:1681

STATE OF WISCONSIN
BEFORE THE EXAMINING BOARD OF ARCHITECTS,
PROFESSIONAL ENGINEERS, DESIGNERS & LAND SURVEYORS

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	AFFIDAVIT OF COSTS
	:	OFFICE OF BOARD LEGAL SERVICES
PAUL W. CHAFER,	:	LS 9107031 LSR
RESPONDENT.	:	

STATE OF WISCONSIN
COUNTY OF DANE, ss:

James E. Polewski, being first duly sworn on oath, deposes and says:

1. That he is an attorney licensed to practice law in the state of Wisconsin, employed by the Office of Board Legal Services, Department of Regulation and Licensing.

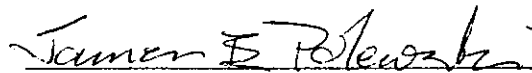
2. That his compensation in that employment, salary and benefits, is calculated at \$24.75 per hour.

3. That he was assigned to act as Administrative Law Judge in the above captioned proceeding, and in completing that assignment spent the time itemized and incurred the following expense for the Department.


<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u>
8/14/91	Draft prehearing notice	10 minutes
8/26/91	Hold prehearing conference	25 minutes
8/27/91	Draft prehearing memorandum	25 minutes
9/30/91	Preside at hearing	6 hours, 15 minutes
10/1/91	Preside at hearing	4 hours, 45 minutes
10/2/91	Review and research	30 minutes
1/20/92	Draft decision	5 hours
2/4/92	Draft decision	2 hours
2/5/92	Draft decision	3 hours
2/6/92	Draft decision	4 hours
	TOTAL	26 hours, 30 minute

Compensation expense for Administrative Law Judge:	\$655.88
Court reporter and transcript fee: (Magne-Script)	1074.30

TOTAL ASSESSABLE COSTS, Office of Board Legal Services:\$1730.18


James E. Polewski

Sworn to and subscribed before me this 6th day of February, 1992.


Notary Public
My commission is permanent.

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	COMPLAINANT'S AFFIDAVIT
	:	OF COSTS
PAUL W. CHAFER, R.L.S.,	:	
RESPONDENT.	:	

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
8/8/90	Preliminary review of file, relevant statutes and code provisions	3 hrs.
10/1/90	Review and organize file, contacted Board Advisor to set up meeting	1 hr. 30 min.
10/8/90	Reviewed file for meeting with Board Advisor	1 hr. 30 min.
10/9/90	Meeting with Board Advisor and Investigator (including preparation); memo	3 hrs. 30 min.
10/29/90	File organized to send to expert witness; retained expert witness, dictated letter to expert witness	5 hrs.
11/6/90	Letter to expert witness proofed and revised; file materials re-organized	2 hrs.
11/12/90	Dictated letter to Matthew Janiak regarding certified copies of surveys	45 min.

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
12/5/90	Reviewed letter from Matthew Janiak, with enclosed surveys; telephone call from expert witness to set up meeting	45 min.
12/6/90	Preparation for meeting with expert witness	3 hrs.
12/7/90	Meeting with expert witness (including preparation)	5 hrs.
12/10/90	Prepared memo regarding meeting with expert witness	6 hrs.
2/7/91	Telephone call to expert witness regarding case status	30 min.
2/11/91	Worked on Complaint	3 hrs.
2/12/91	Drafted and dictated Complaint and letter to expert witness	7 hrs.
2/13/91	Dictated letter to Mr. Janiak	45 min.
2/20/91	Revisions to Complaint	2 hrs.
2/22/91	Prepared letter for expert witness, sent to expert with Complaint	30 min.
2/25/91	Reviewed letter from Mr. Janiak	15 min.
3/7/91	Reviewed file regarding new complaint, consulted with investigator	1 hr. 30 min.
3/8/91	Materials regarding new complaint prepared to send to expert witness, letter to expert dictated	1 hr.
3/28/91	Telephone call from expert witness, set up meeting	15 min.
4/25/91	Preparation for second meeting with expert witness	1 hr. 30 min.
4/26/91	Meeting with expert witness to discuss new investigative file and revisions to Complaint	2 hrs.
5/13/91	Prepared memo regarding meeting with expert witness	1 hr.
5/14/91	Prepared memo regarding meeting with expert witness; drafted second part of Complaint	6 hrs.
5/15/91	Completed drafting Complaint	2 hrs.

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
5/16/91	Proofed and revised Complaint; letter to expert witness; memo regarding additional investigation needed	1 hr. 30 min.
5/28/91	Reviewed additional information obtained by investigator	30 min.
6/7/91	Telephone call from expert witness regarding revisions to Complaint	15 min.
6/14/91	Revisions to Complaint; exhibits copied	45 min.
6/19/91	Obtained hearing dates; prepared Notice of Hearing; Complaint submitted for filing	45 min.
7/15/91	Letter to expert witness dictated	15 min.
7/30/91	Preliminary review of Respondent's Answer to Complaint	30 min.
7/31/91	Respondent's Answer sent to expert witness, with letter	15 min.
8/9/91	Telephone call from expert witness, memo	15 min.
8/14/91	Telephone call from Respondent, set up deposition of Respondent, memo	30 min.
8/16/91	Reviewed Answer to Complaint in detail; dictated letter to Respondent; prepared Notice of Deposition of Respondent	2 hrs. 30 min.
8/19/91	Telephone calls to expert witness, Matthew Janiak and Janet Mindham; memos	3 hrs.
8/20/91	Telephone call from Delores Bonney, memo	30 min.
8/22/91	Dictated letters to Mr. Janiak and Ms. Bonney	45 min.
8/26/91	Pre-hearing conference (including preparation), memo; telephone call from Arnold Mindham, memo	45 min.
8/28/91	Meeting with expert witness (including preparation) to discuss Answer to Complaint	6 hrs. 30 min.
8/29/91	Preparation for Respondent's deposition	6 hrs.
8/30/91	Deposition of Respondent (including preparation)	3 hrs.
9/9/91	Prepared preliminary witness list; telephone call to Robert Griffin	2 hrs. 30 min.

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
9/12/91	Letter to expert witness, with copy of Respondent's deposition sent	15 min.
9/16/91	Preparation for meetings with factual witnesses; reviewed transcript of Respondent's deposition	3 hrs.
9/17/91	Dictated letters to factual witnesses and to Respondent	2 hrs.
9/18/91	Proofed and revised letters	30 min.
9/19/91	Telephone calls to factual witnesses to confirm meeting times	30 min.
9/22/91	Preparation for meetings with factual witnesses (Mr. Janiak, Mr. and Mrs. Mindham, Ms. Bonney and Mr. Marks)	5 hrs. 15 min.
9/23/91	Meetings with factual witnesses, including travel to Richland Center, Boscobel and Prairie du Chien and return travel to Madison	10 hrs. 30 min.
9/24/91	Preparation and meeting with expert witness regarding hearing testimony	6 hrs. 30 min.
9/27/91	Hearing preparation (Respondent's adverse examination)	5 hrs.
9/28/91	Hearing preparation (Respondent's adverse examination; direct examination of my expert witness)	4 hrs. 30 min.
9/29/91	Hearing preparation (direct examination of my expert; opening statement)	6 hrs.
9/30/91	Hearing held and hearing preparation (direct examination of Mr. Janiak, Mr. Mindham, Ms. Bonney and Mr. Marks)	11 hrs. 30 min.
10/1/91	Hearing held and hearing preparation (closing statement)	7 hrs.
2/10/92	Read Proposed Decision	30 min.
2/13/92	Telephone call with my expert witness	15 min.
2/17/92	Dictated letters to Legal Counsel for Board and expert witness	45 min.
2/19/92	Reviewed transcript of hearing; worked on Objections to Proposed Decision	2 hrs.

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME SPENT</u>
2/20/92	Worked on Objections to Proposed Decision; telephone call to expert witness	4 hrs.
2/22/92	Worked on Objections to Proposed Decision	1 hr. 30 min.
2/23/92	Worked on Objections to Proposed Decision	1 hr. 30 min.
2/27/92	Drafted Objections to Proposed Decision	6 hrs.
2/28/92	Proofed and revised Objections; telephone call to expert witness; Objections filed; reviewed Respondent's Objections	2 hrs. 15 min.
TOTAL HOURS		173 hrs. 30 min.
Total prosecuting attorney expense for 173 hours and 30 min. at \$30.00 per hour, salary and benefits:		\$5,205.00

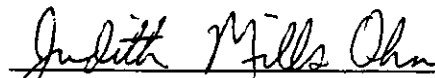
EXPERT WITNESS FEES

1. Francis R. Thousand (35.4 hrs. at \$50.00 per hr.) \$1,770.00

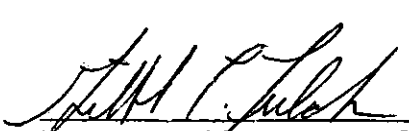
DEPOSITION COSTS

1. Deposition of Paul W. Chafer, taken by
Complainant (8/30/91) \$397.00

TOTAL ASSESSABLE COSTS FOR DIVISION OF ENFORCEMENT: \$7,372.00


 Judith Mills Ohm
 Attorney
 Division of Enforcement

Subscribed and sworn to before
me this 6th day of April, 1992.


 Notary Public, State of Wisconsin
 My Commission is permanent

JMO:lmf
 ATY-2013

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Board of Architects, Professional Engineers, Designers, and Land Surveyor

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Board of Architects, Professional Engineers, Designers and Land Surveyors.

The date of mailing of this decision is May 11, 1992.